

Remarks

Reconsideration of this Application is respectfully requested.

Upon entry of the foregoing amendment, claims 1-28 are pending in the application.

Claim 25 is amended. These changes are believed to introduce no new matter, and their entry is respectfully requested.

In the Office Action dated June 29, 2006, claims 8 and 25-26 stand rejected under 35 U.S.C. § 112, second paragraph, as being allegedly indefinite. Claims 1, 3 and 9-16 stand rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over Chujo et al., U.S. Patent Publication No. 2002/0023156 in view of Mane et al., U.S. Patent Publication No. 2005/0050107. Claims 2 and 4-8 stand rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over Chujo in view of Mane, and further in view of Inglett U.S. Patent No. 5,905,990. Claims 17-19 and 24-28 stand rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over Chujo in view of Mane, further in view of Inglett, and further in view of Byrnes, U.S. Patent No. 6,832,248. Claims 20-23 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form.

Based on the above amendment and the following remarks, Applicants respectfully request that the Examiner reconsider all outstanding objections and rejections and that they be withdrawn.

Rejections under 35 U.S.C. § 112, second paragraph

Claim 25 has been rewritten to address the informalities noted in the indefiniteness rejection, and to improve its readability. Its scope remains unchanged.

Claim 8 is listed as being rejected under 35 U.S.C. 112, second paragraph, however, this appears to be a typographical error, since the indefiniteness issue has been previously addressed.

Allowable Claims 20-23

Applicants thank the Examiner for indicating the allowability of claims 20-23. As discussed further below, in view of the declaration under Rule 131, Applicants believe that all of the claims are allowable.

Rejections under 35 U.S.C. § 103(a)

A number of claims are rejected based on a combination of Mane et al. with other references. Upon review of the confirmation receipt of the electronic filing of the reply to the first office action, it appears that the Rule 131 Declaration did not get attached and uploaded, as the undersigned had expected. The Rule 131 declaration and the associated exhibits are therefore resubmitted with this Reply. The arguments below are substantially identical to those filed previously.

The Rule 131 Declaration shows a date of conception of the invention prior to September 3, 2003 (the filing date of Mane et al.), and diligence in constructive reduction to practice of the invention between September 3, 2003 and September 24, 2003, the filing date of the present application.

As further discussed in the declaration under Rule 131, the difference in dates between the present application and Mane et al. is only three weeks. This application was written by the attorneys at the law firm of O'Melveny and Myers (OMM) in Los Angeles, which is no longer handling the prosecution of this case. Due to a billing dispute between the assignee and OMM,

OMM has not been cooperative in assisting with the Declaration under Rule 131, and the time records of the attorneys are not available to the Applicants at this point.

However, as discussed in the Rule 131 declaration, during the relevant period (from September 3, 2003 to September 24, 2003) one of the inventors, Alexander Tormasov, has had several telephone conversations with OMM regarding the issue of a foreign filing license required from Singapore.

As noted in the declaration under Rule 131, one of the inventors has Singaporean citizenship. Another inventor (Alexander Tormasov) is a Russian citizen, and resides in Moscow. The third inventor (Stanislav Protassov) has Russian citizenship, but has a Singaporean residence address (although he also does not physically reside in Singapore, but resides in Moscow). All three countries at issue (United States, Singapore and the Russian Federation) have laws that require, in substance, that an invention made in the particular country be first filed in that country.

This is a classic case of a conflict of laws issue, where a literal interpretation seems to require that the same application be “first” filed in each of the three countries. This was the subject of several telephone discussions with OMM in the relevant time period between September 3, 2003 and September 24, 2003, and it was ultimately decided that only the U.S. application would be filed.

Applicants’ undersigned representative has reviewed the relevant sections of the MPEP, and discussed these circumstances by telephone with Mr. Robert Clark of the USPTO’s Office of Petitions. It is the undersigned representative’s understanding that the facts, as presented in the

Rule 131 Declaration, and given these circumstances, are sufficient to demonstrate diligence in constructive reduction to practice.

Thus, Applicants submit that given the evidence of conception prior to the filing date of Mane et al., and the diligence in reduction to practice in the relevant time period, Mane et al. should be removed as a prior art reference against this application. Accordingly, Applicants respectfully submit that all of the pending claims are allowable, and respectfully request that the objections and rejections be withdrawn.

Conclusion

All of the stated grounds of objection and rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider all presently outstanding objections and rejections and that they be withdrawn. Applicants believe that a full and complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Prompt and favorable consideration of this Amendment and Reply is respectfully requested.

Respectfully submitted,

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